

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	
DYNAMIC MACHINE WORKS, INC.,)	
Plaintiff)	
)	
VS.)	Docket No. 04-10525-WGY
)	
MACHINE & ELECTRICAL)	
CONSULTANTS, INC.,)	
Defendant)	
_____)	

PLAINTIFF S MOTION FOR ASSESSMENT OF DAMAGES

Now comes the Plaintiff, Dynamic Machine Works, Inc., and hereby moves this Honorable Court for an assessment of the damages in connection with the Judgment entered in its favor on October 6, 2005.

As grounds therefore, the Court entered Judgment in favor of Plaintiff on its breach of contract claim on October 6, 2005. The Judgment does not state the damages.

As set forth in the Court's MEMORANDUM AND ORDER dated January 3, 2005, "... Dynamic has incurred expenses and damages relating to the inspection, receipt, transportation, care and custody of the Johnford Lathe." The Plaintiff also had made a down payment on the Johnford Lathe of \$29,500.00, which the Defendant has not returned.

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In addition to the down payment of \$29,500.00, the Plaintiff's damages itemized in the August 31, 2004, Affidavit of Venanzioro Fonte in Support of the Plaintiff's Motion for Summary Judgment were as follows:

Purchase of Steady Rest	\$45,000.00
Installation Labor	\$21,029.00
Rigger	\$5,800.00
Materials	\$1,644.00
Electrical	\$5,000.00
Building Modifications	\$7,000.00
Storage	\$10,000.00

Since the August 31, 2004 Affidavit, Plaintiff's damages relating to storage of the Johnford Lathe have continued to accrue at the rate of \$1,250.00 per month for an additional amount of \$17,500.00 as set forth below:

Storage 8/31/04 - 10/30/05	
14 months at \$1,250.00	\$17,500.00

Finally, the Plaintiff has incurred legal fees of \$29,736.00.

The Court has directed that Judgment enter for the Plaintiff on the breach of contract claim. The Plaintiff has incurred and continues to incur expenses and damages relating to the inspection, receipt, transportation, care and custody of the Johnford Lathe. Plaintiff is entitled to recover these incidental damages as an aggrieved buyer, in addition to the refund of the money already paid.

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For the above reasons, Plaintiff moves that the damages be assessed and that Judgment enter for all the monetary damages sustained by Plaintiff, with Judgment interest to date, and for such other relief as the Court deems just and proper.

Respectfully submitted

/s/ Gregg S. Haladyna
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